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UNCLAS SECTION 01 OF 02 GUAYAQUIL 001225

SIPDIS

SENSITIVE

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SUBJECT: EX-PRESIDENT NOBOA FORCIBLY RETURNED TO GUAYAQUIL

REF: GUAYAQUIL 567

11. (U) Tactical police stormed the beachfront home of former President Gustavo Noboa on October 11 and loaded him on to a helicopter under orders from the provincial police chief that he be returned to Guayaquil. Noboa has been under house arrest for more than five months, after he returned to Ecuador on April 3 from his brief self-exile in the Dominican Republic. (reftel) He had originally left the country in August 2004, when his arch nemesis and PSC stalwart Leon Febres Cordero (LFC) charged him with supposed irregular restructuring of Ecuador's external debt while Noboa was president.

12. (U) In this latest move, Noboa left Guayaquil without any type of escort (police were no longer guarding his home). As his defense, he claimed that a local judge had recognized his right to change the location of his house arrest to his true residence in the retreat town of Punta Blanca (offering as proof that he only rents the house in Guayaquil). He also argued that he had discussed this plan many times with authorities, both within the police force and the Ministry of Government. LFC was quick to admonish Noboa in the press, stating "he has no right to be given any privileges." Noboa quickly retorted that LFC was behind the questionable police action. He went on to note that even Guayaquil mayor Jaime Nebot (PSC) believes the law enforcement authorities went overboard in their zealotry to bring Noboa back to Guayaquil (Nebot's second such public spat with LFC in just one week).

13. (SBU) While Noboa's lawyer prepares a formal lawsuit for the Interamerican Commission for Human Rights seeking his release from house arrest until there is a Supreme Court that can hear his case, Noboa announced that he is seriously considering a return to politics. However, Noboa's close confidant and former Minister of Government Rodolfo Barniol later told PolOff that Noboa cannot afford to re-enter politics right now. Between the outstanding house arrest order and the threat of further charges being brought against him by the acting comptroller general, it would be very difficult. "To say nothing of the strong-arm tactics LFC would take to oppose it," maintained Barniol.

14. (SBU) Barniol commented that Noboa is "a victim of the (in)justice system" here in Ecuador, and added that the situation the former president finds himself in can all be traced back to the maneuverings of LFC. When asked what he believes LFC's motivation to be, Barniol replied that it stems from two things: Noboa's close relationship with LFC's father (Agustin Febres Cordero Tyler), which LFC came to resent, and the fact that while president, Noboa refused to do the bidding of LFC's party.

15. (SBU) Noboa's close friend also believes that things are going to get worse for the former president. Specifically, in addition to the charges settled against him by LFC, Noboa faces the possibility of additional charges from the acting comptroller general, who is close to LFC. These latest charges would be against Noboa and his two Ministers of Economy and Finance (Luis Iturralde and Jorge Gallardo) for supposedly arranging for the transfer of \$48 million to Salomon Smith Barney for their role in Ecuador's debt restructuring negotiations. The American company was the official advisor to the GOE during these negotiations. However, the comptroller general is portraying this \$48 million as above their fee and more along the lines of making some backroom deal with the banks. While Barniol admitted that he could not provide any evidence of this intended action, he stated the announcement is to be made in the next week or two.

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COMMENT

16. (SBU) This latest political drama is another illustration of the debilitating predicament facing Ecuador's democratic institutions. The current lack of a Supreme Court in Ecuador means that Noboa's case is literally in limbo (under Ecuadorian law only the president of the Supreme Court can rule on Noboa's appeal). The last Supreme Court president annulled the charges against Noboa and the person who reinstated them was a district attorney, not a judge. The

fact that LFC came out early and very vocally against Noboa's right to shift residences seems to confirm his personal motives. It is also interesting that Nebot continues to distance himself from LFC publicly.

JOHNSON